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PEACOCK MYERS, P.C. 201 THIRD STREET, N.W. SUITE 1340 ALBUQUERQUE, NM 87102			KWIECINSKI, RYAN D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/770,251	<b>Applicant(s)</b> HALLIDAY, MICHAEL J.	
	<b>Examiner</b> RYAN D. KWIECINSKI	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 23 March 2009.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1,3-5,7,8,10-19,21-42 and 45-47 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1,3-5,7,8,10-19,21-42 and 45-47 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \*    c)  None of:
1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 March 2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

**Claims 1, 7, 10-11, 16-17, and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,306,769 to Martinet in view of US 6,604,329 B2 to Hoy et al.**

#### **Claim 1:**

Martinet discloses a skylight system comprising:

a tapered light tube (10, Fig.1) comprising a top (14, Fig.1) and a bottom (26, Fig.1) and integral sides (entire light tube is integral), said tapered light tube wider at said top than at said bottom (Fig.1);

Art Unit: 3635

said light tube closed at said top (22, Fig.1) and at said bottom (30, Fig.1);

and

a skylight at said top of said tube.

Martinet does not disclose said light tube being rectilinear along its entire length.

Hoy et al. discloses said light tube being rectilinear along its entire length (40, Fig.2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the light tube of Martinet with a rectilinear shape along its entire length in order to fit the light tube snugly between the rafters and truss members of the building roof. It is known that building structures are formed with perpendicular structural members which form a grid in the ceiling/roof. A rectilinear shaped tube would fit properly through the grid. It is an obvious engineering design choice to form a rectilinear tube for a skylight.

(MPEP 2144.04 IV B. Changes in Shape: In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.))

**Claim 7:**

Art Unit: 3635

Martinet in view of Hoy et al. discloses the skylight system of claim 1 wherein said diffuser comprises complete diffusion (Column 4, lines 35-40) on its interior.

The diffuser is made out of frosted glass so it will naturally diffuse light.

**Claim 10:**

Martinet in view of Hoy et al. discloses the skylight system of claim 39 further comprising a dome at said top wherein said tapered light tube is sealed (Column 3, lines 15-20, cap is affixed to tube) to said top dome and said tapered light tube is sealed to said bottom diffuser (Column 4, lines 35-40, diffuser cap covers bottom of tube), resulting in a completely sealed skylight.

Hoy et al. also discloses the bottom diffuser being completely sealed (Column 2, lines 60-67).

**Claim 11:**

Martinet in view of Hoy et al. discloses the skylight system of claim 10 wherein each of said dome, said tapered tube and said bottom diffuser are stackable during shipping and storage with other similar components (tapered tubes and rounded caps will allow the elements to be stacked).

**Claim 16:**

Martinet in view of Hoy et al. discloses the skylight system of claim 1 wherein said light tube further comprises a reflective interior (Column 3, lines 22-23).

**Claim 17:**

Art Unit: 3635

Martinet in view of Hoy et al. discloses the skylight system of claim 1 wherein a back of said top of said light tube is higher than a front of said top of said light tube (Fig.1).

**Claim 38:**

Martinet in view of Hoy et al. discloses the skylight system of claim 1 further comprising a dome at said top (22, Fig.1).

**Claim 39:**

Martinet in view of Hoy et al. discloses the skylight system of claim 1 further comprising a diffuser (30, Fig.1) at said bottom.

**Claim 40:**

Martinet discloses the skylight system of claim 1 wherein said light tube comprises direct contact with the roof (tube 10 is in contact with the roof 12) but does not specifically disclose that there is no flashing required.

It would have been obvious to have installed the skylight system of Martinet with the use of flashing with the understanding of the results without the flashing. The system of Martinet is operable without the use of flashing since the absence of flashing does not prohibit the skylight system from being installed. The flashing is used for additional support in addition to the roof and also as a means to protect against unwanted moisture damage; the flashing can be removed without affecting the actual skylight system with the expected loss of the additional tube support and moisture protection. (See MPEP 2144.04 II A).

Art Unit: 3635

**Claims 3-5, 18, 21-22, 28-32, 41-42, and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,306,769 to Martinet in view of US 6,604,329 B2 to Hoy et al. in view of US 2,858,734 to Boyd.**

**Claim 3:**

Martinet in view of Hoy et al. discloses the skylight system of claim 38, but does not disclose said dome comprises a diffused dome.

Boyd discloses said dome (23, Fig.1) is a diffused dome (Column 3, lines 5-7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have created the top dome of Martinet out of a material with a surface pattern that would cause the dome to completely diffuse light into the tube taught by Boyd, directing the light down the tube. The diffused dome enhances the overall performance of the skylight causing more light to enter the room being illuminated below.

**Claim 4:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claim 3, Boyd also discloses said dome comprises a completely diffused dome (prisms, 28, cover the whole surface, Fig.1) on its interior.

**Claim 5:**

Art Unit: 3635

Martinet in view of Hoy et al. discloses the skylight system of claim 1, but does not disclose wherein said diffused dome comprises a prismatic diffuser.

Boyd disclose said dome comprises a prismatic diffuser (Column 3, lines 5-7)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have created a top dome of the skylight system of Martinet including a prismatic diffuser taught by Boyd, which scatters the light into the tube at angles causing the light to continue down the light tube. Using a diffuser is an idea well known in the art of skylights and lights in general.

**Claim 18:**

Martinet discloses a skylight system comprising:

a tapered light tube directly contacting the roof and requiring no flashing;

a dome disposed at and sealed at a top of said light tube; and

a diffuser disposed at and sealed at a bottom of said light tube; and said combination of said light tube, said dome and said bottom diffuser permanently sealed.

Martinet does not disclose a rectilinear light tube, a tube requiring no flashing, a diffused dome, or directly disclose the diffuser and the dome forming a permanent seal with the light tube.



Art Unit: 3635

Hoy et al. discloses said light tube being rectilinear along its entire length (40, Fig.2). Hoy et al. also discloses sealing the bottom diffuser to prevent unwanted cold air (Column 2, lines 60-67).

Boyd discloses said dome (23, Fig.1) is a diffused dome (Column 3, lines 5-7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the light tube of Martinet with a rectilinear shape along its entire length in order to fit the light tube snugly between the rafters and truss members of the building roof. It is known that building structures are formed with perpendicular structural members which form a grid in the ceiling/roof. A rectilinear shaped tube would fit properly through the grid. It is an obvious engineering design choice to form a rectilinear tube for a skylight.

(MPEP 2144.04 IV B. Changes in Shape: In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.))

It would have been obvious to have installed the skylight system of Martinet with the use of flashing with the understanding of the results without the flashing. The system of Martinet is operable without the use of flashing since the absence of flashing does not prohibit the skylight system from being installed. The flashing is used for additional support in addition to the roof and also as a

Art Unit: 3635

means to protect against unwanted moisture damage; the flashing can be removed without affecting the actual skylight system with the expected loss of the additional tube support and moisture protection. (See MPEP 2144.04 II A).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have created the top dome of Martinet out of a material with a surface pattern that would cause the dome to completely diffuse light into the tube taught by Boyd, directing the light down the tube. The diffused dome enhances the overall performance of the skylight causing more light to enter the room being illuminated below.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have permanently sealed the diffuser and the dome to the light tube in order to seal off the skylight system and prevent unwanted moisture, dust, and insects from entering the skylight system. Using sealers on mating parts of a structure is notoriously well known in the art.

**Claim 21:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight of claim 18, Boyd disclose said dome comprises a prismatic diffuser (Column 3, lines 5-7)

**Claim 22:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claim 18, Martinet also discloses wherein said bottom diffuser comprises complete diffusion (Column 4, lines 35-40; frosted glass) on its interior.

**Claim 28:**

Art Unit: 3635

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claim 18, Martinet also discloses wherein said light tube further comprises a reflective interior (Column 3, lines 22-23).

**Claim 29:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claim 18, Martinet also discloses wherein a back of said top of said light tube is higher than a front of said top of said light tube (Fig.1).

**Claim 30:**

Martinet discloses a method of assembly of a skylight system on a roof comprising the steps of:

providing a skylight system comprising a tapered light tube (10, Fig.1) with a top (14, Fig.1) and a bottom (26, Fig.1) and integral sides (sides of the tube);

said tapered light tube wider at said top than at said bottom (Fig.1);

disposing a diffuser (30, Fig.1) to the light tube at the bottom of the light tube;

cutting a hole in the roof (hole in which the skylight is placed in Fig.1);

lowering the skylight system through the hole in the roof (the bottom end is skinnier so the skylight must be lowered into the hole);

contacting the tube directly with the roof (tube 10 is in contact with roof 12);

disposing a dome atop the light tube (22, Fig.1).

Art Unit: 3635

Martinet does not disclose a rectilinear light tube, using no flashing, or a completely diffused dome.

Hoy et al. discloses said light tube being rectilinear along its entire length (40, Fig.2).

Boyd discloses a completely diffused (prisms, 28, span along the entire surface of 23, Fig.1) dome (23, Fig.1) atop the light tube.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the light tube of Martinet with a rectilinear shape along its entire length in order to fit the light tube snugly between the rafters and truss members of the building roof. It is known that building structures are formed with perpendicular structural members which form a grid in the ceiling/roof. A rectilinear shaped tube would fit properly through the grid. It is an obvious engineering design choice to form a rectilinear tube for a skylight.

(MPEP 2144.04 IV B. Changes in Shape: In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.))

It would have been obvious to have installed the skylight system of Martinet with the use of flashing with the understanding of the results without the flashing. The system of Martinet is operable without the use of flashing since the absence of flashing does not prohibit the skylight system from being installed.

Art Unit: 3635

The flashing is used for additional support in addition to the roof and also as a means to protect against unwanted moisture damage, the flashing can be removed without affecting the actual skylight system with the expected loss of the additional tube support and moisture protection. (See MPEP 2144.04 II A).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have created the top dome of Martinet out of a material with a surface pattern that would cause the dome to completely diffuse light into the tube taught by Boyd, directing the light down the tube. The diffused dome enhances the overall performance of the skylight causing more light to enter the room being illuminated below.

**Claim 31:**

Martinet in view of Hoy et al. in view of Boyd discloses the method of claim 30, Martinet also discloses wherein the step of providing the light tube comprises providing a tapered tube (10, Fig.1) with the top of the tapered light tube being wider (14, Fig.1) than the bottom of the light tube (26, Fig.1).

Martinet does not specifically disclose lowering the skylight until the taper cross section of the tube is the same size as the cross section of the hole in the roof.

Martinet does disclose lowering the tube until the cross section of the tube is the same as the cross section of the hole of the flashing. Without the flashing this process would be used equally the same with a hole in the roof. It is a well known process to lower skylight tubes down through the holes formed for the

Art Unit: 3635

skylight system. The direct contact with the skylight tube and the roof will aid in sealing the roof and the intrusion of unwanted moisture, dirt, etc.

**Claims 32:**

Martinet in view of Hoy et al. in view of Boyd discloses the method of claim 30, but does not directly disclose wherein the step of disposing a diffuser to the light tube comprises permanently sealing the diffuser to the light tube; and wherein the step of disposing a dome atop the light tube comprises permanently sealing the dome atop the light tube; resulting in a permanently sealed skylight system.

Martinet does disclose affixing the dome to the tube and also securely connecting the diffuser to the system. Hoy et al. also discloses sealing the system to prevent unwanted air flow through the system (Column 2, lines 60-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have permanently sealed the diffuser and the dome to the light tube in order to seal off the skylight system and prevent unwanted moisture, dust, and insects from entering the skylight system. Using sealers on mating parts of a structure is notoriously well known in the art.

**Claims 41-42:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claim 18, Boyd discloses said dome (23, Fig.1) is a diffused dome (Column 3, lines 5-7). Boyd also discloses said dome comprises a completely diffused dome (prisms, 28, cover the whole surface, Fig.1) on its interior.

Art Unit: 3635

**Claims 45-46:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claims 3 and 18, Boyd discloses wherein said diffused dome comprises a manufactured randomly diffused dome (Column 3, lines 5-7; prisms cover the entire surface in Fig.1; the arrangement of the prisms will cause random diffusion of the light depending on the incident angle of the light on each individual prism).

**Claim 47:**

Martinet in view of Hoy et al. in view of Boyd discloses the method of claim 30 Boyd also discloses wherein disposing a completely diffused dome atop the light tube comprises disposing a manufactured completely and randomly diffused dome atop the light tube (Column 3, lines 5-7; prisms cover the entire surface in Fig.1; the arrangement of the prisms will cause random diffusion of the light depending on the incident angle of the light on each individual prism).

**Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,307,769 to Martinet in view of US 6,604,329 B2 to Hoy et al. in view of Publication No. US 2003/0066254 A1 to DeBlock.**

**Claim 8:**

Martinet in view of Hoy et al. discloses the method of claim 39, but does not teach wherein said bottom diffuser comprises a prismatic diffuser.

Art Unit: 3635

DeBlock discloses wherein said bottom diffuser comprises a prismatic diffuser (Page 1, paragraph 16, line 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted the bottom diffuser with a prismatic diffuser taught by DeBlock to better enhance the scattering of the light into the room into which the skylight directs the sunlight. Prismatic diffusers are very well known in the art and would have been an obvious application in Martinet's skylight system.

**Claims 23 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,307,769 to Martinet in view of US 6,604,329 B2 to Hoy et al. in view of US 2,858,734 to Boyd in view of Publication No. US 2003/0066254 A1 to DeBlock.**

**Claim 23:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claim 18, but does not disclose wherein the bottom diffuser is a prismatic diffuser.

DeBlock discloses wherein said bottom diffuser comprises a prismatic diffuser (Page 1, paragraph 16, line 5).



Art Unit: 3635

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted the bottom diffuser with a prismatic diffuser taught by DeBlock to better enhance the scattering of the light into the room into which the skylight directs the sunlight. Prismatic diffusers are very well known in the art and would have been an obvious application in Martinet's skylight system.

**Claim 37:**

Martinet in view of Hoy et al. in view of Boyd discloses the method of claim 30, but does not disclose a step of adhering light tube to the roof.

DeBlock discloses a step of adhering (Page 1, Paragraph [0020]; used adhesives to secure the flashing to roof) the light tube to said roof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have secured Martinet's skylight system to the roof using adhesives taught by DeBlock. Adhesives would secure and seal the skylight to the roof structure, preventing external elements from traveling between the roof and the skylight. Although DeBlock does not use the adhesives on the light tube, he does disclose that adhesives are a suitable secure/sealing means for metal structure in roofing applications.

**Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,306,769 to Martinet in view of US 6,604,329 B2 to Hoy et al. in view of USPN 5,596,848 to Lynch.**

### **Claims 12 and 15**

Martinet in view of Hoy et al. discloses the skylight system of claim 38, but does not disclose wherein said top dome comprises a notch system and said tapered light tube is disposed within said notch system per claims 12 or wherein the notch system further comprises a gasket per claims 15.

Lynch teaches wherein said top dome comprises a notch system (30,37, Fig.4) and said tapered light tube is disposed within said notch system per claim 12 or wherein the notch system further comprises a gasket (36, Fig.6) per claim 15.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a notch system on the bottom of the dome, which mates with the top of the tapered tube and creates a more secure connection and seal between the two. It is also obvious to include a gasket in this notch system to seal the opening between the dome and the tube. The use of mating edges, such as a notch and a lip, as well as gaskets to seal the mating edges are two extremely well known practices.

**Claims 24, 26, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,306,769 to Martinet in view of US 6,604,329 B2 to Hoy et al. in view of US 2,858,734 to Boyd in view of USPN 5,596,848 to Lynch.**

Art Unit: 3635

**Claims 24, 26, and 33:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claims 18 and 30, but does not disclose wherein said top dome comprises a notch system and said tapered light tube is disposed within said notch system per claims 24 and 33 or wherein the notch system further comprises a gasket per claims 26.

Lynch teaches wherein said top dome comprises a notch system (30,37, Fig.4) and said tapered light tube is disposed within said notch system per claim 24 and 33 or wherein the notch system further comprises a gasket (36, Fig.6) per claim 26.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a notch system on the bottom of the dome, which mates with the top of the tapered tube and creates a more secure connection and seal between the two. It is also obvious to include a gasket in this notch system to seal the opening between the dome and the tube. The use of mating edges, such as a notch and a lip, as well as gaskets to seal the mating edges are two extremely well known practices.

**Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,306,769 to Martinet in view of US 6,604,329 B2 to Hoy et al. in view of USPN 5,896,713 to Chao et al.**

**Claims 13 and 14:**

Martinet in view of Hoy et al. discloses the skylight system of claim 39, but he does not disclose wherein said bottom diffuser comprises a notch system and said tapered light tube is disposed within said notch system per claim 13 or wherein the notch system further comprises a gasket per claim 14.

Chao et al. discloses wherein said bottom diffuser comprises a notch system (26, Fig.5) and said tapered light tube is disposed within said notch system per claim 13 or wherein the notch system further comprises a gasket (94, Fig.5) per claim 14.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a notch system on the top of the bottom diffuser, which mates with the bottom of the tapered tube and creates a more secure connection and seal between the two. It is also obvious to include a gasket in this notch system to seal the opening between the bottom diffuser and the tube. The use of mating edges, such as a notch and a lip, as well as gaskets to seal the mating edges are two extremely well known practices.

**Claims 25, 27, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,306,769 to Martinet in view of US 6,604,329 B2 to Hoy et al. in view of US 2,858,734 to Boyd in view of USPN 5,896,713 to Chao et al.**

Art Unit: 3635

**Claims 25, 27 and 34:**

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claims 18 and 30, but he does not disclose wherein said bottom diffuser comprises a notch system and said tapered light tube is disposed within said notch system per claims 25 and 34 or wherein the notch system further comprises a gasket per claim 27.

Chao et al. teaches wherein said bottom diffuser comprises a notch system (26, Fig.5) and said tapered light tube is disposed within said notch system per claims 25 and 34 or wherein the notch system further comprises a gasket (94, Fig.5) per claim 27.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a notch system on the top of the bottom diffuser, which mates with the bottom of the tapered tube and creates a more secure connection and seal between the two. It is also obvious to include a gasket in this notch system to seal the opening between the bottom diffuser and the tube. The use of mating edges, such as a notch and a lip, as well as gaskets to seal the mating edges are two extremely well known practices.

**Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,306,769 to Martinet in view of Hoy et al. in view of USPN 6,351,923 B1 to Peterson.**

**Claim 35:**

Martinet in view of Hoy et al. discloses the skylight system of claim 10, but does not disclose said light tube includes a desiccant or an inert gas disposed therein.

Peterson discloses a desiccant (42, Fig.2) and an inert gas (Column 1, lines 27-30) disposed therein.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the skylight system of Martinet including a desiccant and an inert gas disposed within the tube of the skylight taught by Peterson. Desiccants are notoriously well known in the art to be used to reduce the amount of moisture build up in sealed of spaces. The desiccant will prevent condensation from developing inside of the skylight tube due to the change in temperature of the gas inside of the tube. Inert gases increase the insulation of the skylight system reducing the heat flow through the system, in turn reducing heat loss from the building that the skylight system is installed.

**Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,306,769 to Martinet in view of US 6,604,329 B2 to Hoy et al. in view of US 2,858,734 to Boyd in view of USPN 6,351,923 B1 to Peterson.**

**Claim 36:**

Art Unit: 3635

Martinet in view of Hoy et al. in view of Boyd discloses the skylight system of claim 18, but does not disclose said light tube includes a desiccant or an inert gas disposed therein.

Peterson discloses a desiccant (42, Fig.2) and an inert gas (Column 1, lines 27-30) disposed therein.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the skylight system of Martinet including a desiccant and an inert gas disposed within the tube of the skylight taught by Peterson. Desiccants are notoriously well known in the art to be used to reduce the amount of moisture build up in sealed of spaces. The desiccant will prevent condensation from developing inside of the skylight tube due to the change in temperature of the gas inside of the tube. Inert gases increase the insulation of the skylight system reducing the heat flow through the system, in turn reducing heat loss from the building that the skylight system is installed.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 18, and 30 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN D. KWIECINSKI whose telephone number is

Art Unit: 3635

(571)272-5160. The examiner can normally be reached on Monday - Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Basil Katcheves can be reached on (571)272-6846. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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RDK

/Ryan D Kwiecinski/  
Examiner, Art Unit 3635  
/Basil Katcheves/  
Primary Examiner, Art Unit 3635